IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:- 20.09.2007

Coram

The Honourable Mr. Justice M. CHOCKALINGAM

W.P. Nos.26808 to 26811 of 2004

and

W.P.M.P. Nos.2214 to 2217 of 2007

J. Mahaboob Khan ... Petitioner in W.P. No.26808/2004

A.V. Ravindran ... Petitioner in W.P. No.26809/2004

A. Kannappan ... Petitioner in W.P. No.26810/2004

M. Sadhurudeen ... Petitioner in W.P. No.26811/2004

..vs..

1. The Director General of Police,
   Chennai - 600 004.

2. Inspector General of Police,
   Law and Order,
   Chennai - 600 004.

3. The Deputy Inspector
   General of Police,
   Vellore Range, Vellore.

4. The Superintendent of Police,
   Salem. ... Respondents in all W.Ps.

Petition under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, to call for the records relating to the orders passed by the third respondent in Pro.C.Nos.B1/PR44/98, B1/PR45/98, B1/PR52/98, B1/PR46/98 respectively dated 29.11.1998, the second respondent in Pro.Rc.No.65486/AP2(2)/99 dated 26.5.1999 (WP 26808/04), 65489/AP2(2)/99 dated 21.5.1999(WP 26809/04) respectively, the first respondent in No. 200178/AP.2(2)/ 2002 dated 30.5.2003 (WP 26808/04) and quash the same and issue consequential direction to the respondents to regularize the period of suspension from 29.11.1996 to 01.05.1997 as duty and grant consequential service and monetary benefits.

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For Petitioner : Mr. M. Ravi

For Respondents : Mr. V. Arun,
Addl. Govt. Pleader

COMMON ORDER

The present writ petitions have been brought forth by the petitioners seeking to issue a writ of certiorarified mandamus, to quash the orders passed by the third respondent in Pro.C.Nos.B1/PR44/98, B1/PR45/98, B1/PR52/98, B1/PR46/98 respectively dated 29.11.1998, the second respondent in Pro.Rc.No.65486/AP2(2)/99 dated 26.5.1999, 65489/AP2(2)/99 dated 21.5.1999 respectively, the first respondent in No. 200178/AP.2(2)/2002 dated 30.5.2003 and to direct the respondents to regularize the period of suspension from 29.11.1996 to 01.05.1997 as duty and grant consequential service and monetary benefits.

2. Affidavits filed in support of the writ petitions along with counter affidavits are perused. The Court heard the learned counsel appearing on either side.

3. The following facts, which were emerged in short, are admitted facts:-

(i) When these petitioners were served as Police Constables Grade I in Mallikarai Police station and Mallur Police Station respectively during relevant time, the fourth respondent initiated proceedings against them under Rule 3(b) of the Tamil Nadu Police Subordinate Service (D.&A. Rules). All of them were kept under suspension by the fourth respondent. The charge against them is gross neglect of duty in having failed to watch illicit activities of Bootleggers to collect and furnish information to the Inspector of Police, Kondalampatti circle about the selling of illicit arrack, which resulted in the death of two persons, after consuming illicit arrack sold by one Nachayee on 28.11.1996.

(ii) Explanations were called for from the petitioners. The Additional Superintendent of Police, Headquarters, Salem, who conducted enquiry, filed an enquiry report, where he found that the charges framed against the petitioners were not proved. But the third respondent did not agree with the findings of the Enquiry Officer and he did not even consider the representations submitted by the petitioners and he has taken a view that charges were proved against the petitioners and imposed the punishment of reduction in

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the time scale of pay by one stage for one year with cumulative effect.

(iii) Aggrieved over the same, the petitioners preferred an appeal before the second respondent, who rejected the same with regard to petitioners in W.P. Nos.26808 and 26809 of 2004 respectively, but no orders are passed with regard to petitioners in W.P. Nos.26810 and 26811 of 2004 respectively. Under the circumstances, some of them took the matter before the Administrative Tribunal and filed O.A. Nos.7654 to 7657 of 1999 and the Administrative Tribunal, on enquiry, allowed the said appeals and recorded a finding that charges were not proved and the finding of the Enquiry Officer was correct and the same was to be sustained.

(iv) Thereafter, the petitioners made representations to the first respondent to consider their case, since they are equally placed with that of other delinquents, who filed O.As. before the Administrative Tribunal, but their representations have been rejected. Under such circumstances, the petitioners were compelled to file the present writ petitions before this Court.

4. The only contention put forth by the learned counsel for the petitioners is that these petitioners along with twelve others including two Head Constables, one Inspector of Police were issued with the same charge memo. The Enquiry Officer, after detailed enquiry, given a finding that charges were not proved. But, without any reason whatsoever, the third respondent disagreed with the said findings and imposed the punishment. When the appeals were filed, the same were not considered. It is pertinent to point out that some of them filed O.As. before the Administrative Tribunal, where the order passed by the third respondent imposing punishment was actually set aside and the finding of the Enquiry Officer was found to be correct. Hence, the petitioners, who are also equally placed with other delinquents, should be given same benefit, but the same was not done by the Department. Hence the writ petitions have got to be allowed.

5. The Court heard the learned Additional Government Pleader appearing for the respondents.

6. After careful consideration of submissions made by either side, the Court is of the considered opinion that all these writ petitions have got to be ordered. It is not in controversy that these petitioners along with two Head Constables and one Inspector of Police were issued with a charge sheet referred to above. While the Enquiry Officer has given a finding that charges were not proved, there was no reason for the third respondent to take a different view. When the third respondent imposed the punishment, they preferred an appeal before the second respondent, who has outrightly

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rejected the same without considering any of the aspects. Aggrieved over the same, some of the delinquents took it on appeal before the Administrative Tribunal. It has given an elaborate order, giving reasons and found that the Enquiry Officer was perfectly correct in rendering a finding that the charges were not proved. There was no reason either for the third respondent to disagree with the findings of the Enquiry Officer or for the second respondent to confirm the order passed by the third respondent.

7. Apart from this, the crowning circumstance is that after orders were passed by the Tribunal, when the petitioners made representations, stating that they are also equally placed with that of other delinquents, who filed appeals and obtained orders by setting aside the charge framed against them, the same were not considered. The Court is unable to notice as to why discrimination was shown to the petitioners in respect of same charges framed against all the delinquents and the Enquiry Officer found that charges were not proved against all the delinquents. Hence the orders passed by the respondents are set aside and the writ petitions are ordered accordingly. Consequently, the connected W.P.M.Ps. are closed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ssa.

To

1. The Director General of Police,
   Chennai - 600 004.

2. Inspector General of Police,
   Law and Order,
   Chennai - 600 004.

3. The Deputy Inspector
   General of Police,
   Vellore Range, Vellore.

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4. The Superintendent of Police,
   Salem.

+4ccs to Mr.M.Ravi, Advocate Sr 59004
+4ccs to Govt. Pleader Sr 59074 to 59077

NSM (CO)
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